

REMARKS

Claim Changes

Claims 1 and 13 are amended to clarify Applicant's claimed invention. Support for this amendment can be found at least on paragraphs [0014] and [0017] of Applicant's specification as published (US 2004/0162066 A1). Thus, no new matter is added.

Claims 2-3, 5-6, 11, and 14-20 are amended to be consistent with claims 1 and 13, as amended.

No amendment made is related to the statutory requirements of patentability unless expressly stated herein. No amendment is made for the purpose of narrowing the scope of any claim, unless Applicant had argued herein that such amendment is made to distinguish over a particular reference or combination of references. Any remarks made herein with respect to a given claim or amendment is intended only in the context of that specific claim or amendment, and should not be applied to other claims, amendments, or aspects of Applicant's invention.

Rejection of claims 1-10 and 13-20 under 35 U.S.C. § 102(b) as being anticipated by US 6,223,032 (Cuffaro)

Applicant has amended the claims to clarify the invention. Applicant therefore respectfully requests reconsideration of the rejection of claims 1 and 13 under 35 U.S.C. § 102(b) as being anticipated by Cuffaro.

Applicant respectfully submits that Cuffaro does not anticipate, either expressly or inherently, each and every element as set forth in independent claims 1 and 13, as amended. For example, independent claims 1 and 13, as amended, recite “determin[ing] whether *data being transmitted* from the communication device *includes a virus*” and “[disabling the communication device from establishing a new call upon determining] that the *data transmitted* from the communication device *includes a virus*” which is not anticipated either expressly or inherently, in Cuffaro.

Cuffaro, in column 1, lines 50-55, at best discloses detecting misbehaving mobile stations for the purposes of either shutting down misbehaving mobile stations or reporting the misbehaving mobile station so that corrective action can be taken. However, Cuffaro's determination of misbehaving mobile stations is based on failure to communicate according to protocols and other problems experienced during call setup (e.g. call drops), air interface

problems, and/or power adjustment problems resulting in weak or too strong signals, bit error rate etc (see Cuffaro, column 2, lines 30-61). But, Cuffaro does not mention anywhere in the reference that the determination of misbehaving mobile stations is based on evaluating the data being transmitted to determine if the data includes virus. Thus, Cuffaro fails to disclose “determin[ing] whether *data being transmitted* from the communication device *includes a virus*” and “[disabling the communication device from establishing a new call upon determining] that the *data transmitted* from the communication device *includes a virus*” as recited in independent claims 1 and 13, as amended.

Applicant therefore submits that claims 1 and 13, as amended are not anticipated by Cuffaro, and therefore the rejection of claims 1 and 13 under 35 USC 102(b) should be withdrawn. Applicant requests that claims 1 and 13 may now be passed to allowance.

Dependent claims 2-10 and 14-20 depend from, and include all the limitations of independent claims 1 and 13, as amended. Therefore, Applicant respectfully requests reconsideration of dependent claims and requests the withdrawal of the rejection.

Rejection of claims 11-12 and 21-22 under 35 U.S.C. § 103(a) as being unpatentable over US 6,223,032 (Cuffaro)

As mentioned above, Applicant respectfully submits that the Cuffaro does not disclose “determin[ing] whether *data being transmitted* from the communication device *includes a virus*” and “[disabling the communication device from establishing a new call upon determining] that the *data transmitted* from the communication device *includes a virus*” as recited in independent claims 1 and 13, as amended. Claims 11-12 and 21-22 depend from claims 1 and 13, respectively. Applicant respectfully requests withdrawal of the rejection of claims 11-12 and 21-22 under 35 U.S.C. § 103(a) in view of Cuffaro.

Conclusion

Applicant has reviewed the other references of record and believes that Applicant's claimed invention is patentably distinct and nonobvious over each reference taken alone or in combination. Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Such action is earnestly solicited by the Applicant. Should the Examiner have any questions, comments, or suggestions, the Examiner is invited to contact the Applicant's attorney or agent at the telephone number indicated below.

Please charge any fees that may be due to Deposit Account 502117, Motorola, Inc.

Respectfully submitted,

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